

CITY OF MUSKEGON  
ZONING BOARD OF APPEALS  
REGULAR MEETING  
MINUTES

August 14, 2012

Chairman R. Hilt called the meeting to order at 4:00 p.m. and roll was taken.

MEMBERS PRESENT: E. Fordham, R. Hilt, T. Halterman, J. Clingman-Scott,  
B. Larson, excused

MEMBERS ABSENT: W. German Jr., S. Brock

STAFF PRESENT: M. Franzak, D. Renkenberger

OTHERS PRESENT: J. Lipps, 3508 Wilcox; M. Lipps, 3508 Wilcox; V. Staffney, 2088  
Reneer

APPROVAL OF MINUTES

A motion that the minutes of the regular meeting of July 10, 2012 be approved was made by E. Fordham, supported by J. Clingman-Scott and unanimously approved.

PUBLIC HEARINGS

Hearing; Case 2012-005: Request for a variance from Section 2311: Accessory Structures & Buildings, to allow a carport to be placed in the front yard at 3508 Wilcox Ave, by Jack Lipps. M. Franzak presented the staff report. The owner would like to place a carport on the property. Carports must be placed behind the front property line, per City ordinance. However, that is not possible in this situation because the house sits atop a large hill, sloping down toward the front property line, without any way of having driveway access. The owner would like to place the carport at the bottom of the hill, which is technically in the front yard. This area was once considered Wilcox Avenue; however, a portion of the road was vacated. Staff is still researching whether or not the owner is allowed to place anything on this vacated road. Notice was given to property owners within 300 feet of this property. Barbara Fried, 3524 Wilcox Ave, is opposed to the project and believes that is the City right of way. Robert and Judy Shatney, 1792 Beach St, have no objections to the project. P. Mulder stated that he is in favor of the request. M. Franzak provided board members with correspondence from the City's attorney, J. Schrier. The City Attorney stated that the City's Resolution to vacate the street did not vacate the private easement interests of the various subdivision lot owners. The only way to terminate the private easement interests of the various subdivision lot owners is by a Circuit Court order. Mr. Schrier suggested that Mr. Lipps contact his attorney to see how best to proceed.

Board members discussed the street vacation and ownership of the area in question where the carport was proposed to go. J. Lipps stated that the City had vacated the street because they had had to put steps up the dune on City property. He stated that he was awarded 25 extra feet of land from the vacation. He stated that they had been taken to court by a neighbor in the past, stating that they had built on City property but the lawsuit had been dismissed. E. Fordham asked who plowed the area. J. Lipps stated that the City plowed it, and pushed the snow to the

side where there were no houses. M. Franzak stated that only a portion of the road had been vacated, and he pointed that out on a picture in the staff report. V. Staffney stated that he owned property at 3530, 3534, and 3536 Wilcox. He stated that back when the street was vacated, it was done improperly and he wanted the issue sent back to the Planning Department to be resolved. J. Lipps stated that previous legal issues regarding this property should be recognized as a separate issue from this case. B. Larson asked if the proposed carport would interfere with the snowplowing. J. Lipps stated that it would not.

A motion to close the public hearing was made by J. Clingman-Scott, supported by E. Fordham and approved, with B. Larson voting nay.

J. Clingman-Scott stated that she was not opposed to the carport itself, but the ownership of the land presented a problem. She wanted to see that resolved before approving the carport. B. Larson asked what staff's recommendation was. M. Franzak stated that he recommended going with the City Attorney's opinion, which stated that Mr. Lipps should consult with his attorney regarding the property rights. R. Hilt stated that the ownership issue should have been resolved before the ZBA request was made. He concurred that he was not opposed to the carport, but the ownership dispute needed to be resolved first.

A motion to table the case was made by J. Clingman-Scott, supported by B. Larson and unanimously approved.

M. Lipps questioned the ownership dispute. She stated that the street vacation granted that portion of the land to them. J. Clingman-Scott suggested that they get a title search done to see what that says about ownership. B. Larson asked if they had the deed to the property. J. Lipps stated that they City retained the deed, but they have legal rights to the property, as that is where the steps to their house are located.

#### OLD BUSINESS

None

#### OTHER

None

There being no further business, the meeting was adjourned at 4:35 p.m.